

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:) BANKRUPTCY NO. 09-21812-TPA
)
JAMES SIMS,) ADVERSARY PRO. NO. 09-02405-TPA
Debtor)
) CHAPTER 11
JAMES SIMS,)
Plaintiff) DOCUMENT NO.
)
v.) RELATED TO DOC. NOS. 1 and 7
)
CROSSROADS DINOR, LTD,) HEARING DATE and TIME:
Defendant) January 21, 2010 at 10:00 a.m.

**STIPULATION AND REQUEST FOR ORDER
DETERMINING SECURED STATUS**

Debtor, by his counsel, Robert O. Lampl, John P. Lacher, an Elsie R. Lampl, and Crossroads Dinor, Ltd, by its counsel, MacDonald, Illig, Jones & Britton LLP, stipulate and agree to the following facts in resolution of the debtor's complaint for valuation of the secured claim filed on behalf of Crossroads Dinor, Ltd.:

1. Debtor filed a petition for protection under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. 1101 *et seq*, (hereinafter, the "Bankruptcy Code") on March 16, 2009.
2. Crossroads Dinor Ltd. (hereinafter "Crossroads") filed a secured claim in the amount of \$457,037.70 on April 10, 2009 at Claim No. 7.

3. Crossroads' claim is secured by real property owned by the debtor and his non-debtor spouse, located at 101 Plum Street, Edinboro, Pennsylvania 16412 (the "Real Property").

4. Crossroads amended its secured claim to \$448,558.89 on June 17, 2009.

5. Debtor filed a Complaint for Valuation of Security (sic) Claim Pursuant to 11 U.S.C. Section 506(a) and Federal Rule of Bankruptcy Procedure 3012 on July 16, 2009.

6. Debtor filed a plan of reorganization on November 13, 2009, which provides for sale of the Real Property and payment of the liens against the Real Property from the proceeds of sale.

7. Debtor and Crossroads agree that the appraised value of the Real Property is \$550,000.00.

8. Debtor and Crossroads agree that the liens against the Real Property which take priority over the mortgage lien in favor of Crossroads are:

<u>Date</u>	<u>Lienholder</u>	<u>Type of Lien</u>	<u>Recording Data</u>	<u>Current Balance</u>
2008	Erie County/City/School	real estate taxes	N/A	\$ 5,365.98
2009	Erie County/City	real estate taxes	N/A	4,762.91
08/21/07	Northwest Savings Bank	mortgage	Record Book 1441, Page 0343 in the Office of the Recorder of Deeds for Erie County	390,976.13
08/21/07	Northwest Savings Bank	mortgage	Record Book 1441, Page 359 in the Office of the Recorder of Deeds for Erie County	141,485.05

TOTAL: \$ 542,590.07

8. Debtor and Crossroads agree that the secured claim filed by Crossroads shall be valued at \$10,000.00, which is the approximate amount of equity in the Real Property after deducting the amount of the prior liens against the Real Property.

9. Debtor and Crossroads agree that if the Bankruptcy Court approves the sale of the Real Property for a price in excess of \$550,000.00, Crossroads' secured claim shall be increased to the amount of the net proceeds of sale, after deduction of usual and customary closing costs and prior liens, but, in no event shall Crossroads' claim exceed the amount of its secured Claim No. 7, as amended on June 17, 2009.

WHEREFORE, Debtor and Crossroads Dinor, Ltd respectfully request this Honorable Court to enter and Order approving this Stipulation and adopting this Stipulation as an order of court.

Respectfully submitted,

/s/ Robert O. Lampl

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ORDER

AND NOW, this _____ day of _____, 2009, upon consideration of the Stipulation and Request for Order Determining Secured Status, filed on behalf of and with the consent of the parties, it is hereby ORDERED, ADJUDGED, and DECREED that:

1. the stipulation shall be and hereby is APPROVED and adopted as an order of this Court; and
2. the pretrial conference scheduled for January 21, 2010 at 10:00 a.m. shall be and hereby is CANCELLED.

BY THE COURT:

J.

Thomas P. Agresti, Chief Judge
United States Bankruptcy Court for
the Western District of Pennsylvania